

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

JOSEPH JAMES RADMACHER,

Appellant

v.

DIRECTOR OF REVENUE.

Respondent

DOCKET NUMBER WD75763

DATE: August 6, 2013

Appeal From:

Circuit Court of Cass County, MO
The Honorable Daniel Olsen, Judge

Appellate Judges:

Division Four
James Edward Welsh, C.J., Alok Ahuja, J., and Jack R. Grate, Sp. J.

Attorneys:

Matthew Hamilton, Pleasant Hill, MO

Counsel for Appellant

Attorneys:

Rachel Jones, Jefferson City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**JOSEPH JAMES RADMACHER, Appellant, v.
DIRECTOR OF REVENUE, Respondent**

WD75763

Cass County

Before Division Four Judges: Welsh, C.J., Ahuja, J., and Grate, Sp. J.

The Director of Revenue disqualified Joseph Radmacher's Commercial Driver's License (CDL) for one year because he had used a motor vehicle in the commission of a felony (§ 302.755.1(5), RSMo), in that he was convicted of second-degree assault for operating a motor vehicle while intoxicated resulting in injury (§ 565.060, RSMo). The circuit court affirmed the Director's decision. On appeal, Radmacher argues that the circuit court erred in affirming because the Director did not offer any evidence to refute Radmacher's evidence that the decision to disqualify his CDL was arbitrary and unreasonable.

Affirmed

Division Four holds:

The circuit court did not err in affirming the decision to disqualify Radmacher's CDL because the Director introduced records showing that Radmacher (1) had a commercial driver's license and (2) was convicted of using a motor vehicle in the commission of a felony, thereby satisfying her burden of production by establishing the statutory elements necessary to support the disqualification under section 302.755.1(5), RSMo. Radmacher presented no evidence to refute the Director's evidence. The circuit court was free to reject Radmacher's evidence that was intended to show that the disqualification was arbitrary and unreasonable.

Opinion by James Edward Welsh, Chief Judge

August 6, 2013

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